

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14728, of Carlos H. and Jeanne Lord Espinel, pursuant to 11 DCMR 3107.2, for variances to allow an addition to a nonconforming structure, such addition creating a new nonconformity of structure regarding the percentage of lot occupancy and side yard (Paragraphs 2001.3 (b) and (c)), the allowable percentage of lot occupancy requirements (Sub-section 403.2), and the side yard requirements (Sub-section 405.9) in the R-3 District at premises 3328 O Street, N.W., (Square 1229, Lot 141 (formerly 825)).

HEARING DATE: January 20, 1988

DECISION DATE: February 3, 1988

FINDINGS OF FACT:

1. The site, known as premises 3328 O Street, N.W., is located on the south side of O Street between 33rd and 34th Streets in the Georgetown Historic District. This site is located in the midst of an R-3 District which is characterized by row dwellings with a small number of semi-detached and detached houses.

2. The site is basically rectangular in shape with a frontage of 35 feet along O Street and a west lot line of 112.38 feet and an east line of 116.25 feet. The site has a frontage of 35.21 feet along a 16 foot wide public alley located at the rear of the site. The alley jogs to the southeast of the site at a width of 20 feet. The site is improved with a two to three story brick detached structure originally built circa 1809. A room was added to the north and a two-story porch was added to the rear of the original structure around 1900. On May 12, 1958, the effective date of the current Zoning Regulations, the site became nonconforming with regards to side yard setback requirements.

3. As captioned above, the applicant is seeking area variances to allow the construction of an addition to replace the existing two-story partially enclosed rear porch which is in a deteriorated condition. The proposed addition will be enclosed and slightly larger than the existing porch. The addition will accommodate a bedroom on the upper floor and an enlarged kitchen below. The area at the basement level and at grade will be open. The design materials and dimensions of the addition will be consistent with the existing structures and character of the area.

4. The existing lot area is 4,000 square feet. The existing house occupies approximately 1,200 square feet. The existing side yard adjacent to the existing house is approximately 176 square feet. The addition comprises 311 square feet and its adjoining side yard comprises 47 square feet to equal a total lot occupancy of 1,734 square feet. If only the physical structure in the lot -- deleting the 176 square feet plus 47 square feet of side yard area calculated into the total, were counted, the lot occupancy for the house and addition would be 1,511 square feet which equals 38 percent of the lot occupancy.

5. The existing structure provided a side yard of only three feet six inches. Because the existing side yards are below the minimum width required, the width of the lot, and not the width of the structure, is used to compute the lot occupancy.

6. The proposal has been reviewed and approved by the Historic Preservation Review Board and the Fine Arts Commission.

7. By memorandum dated January 13, 1988, the Office of Planning (OP) recommended approval of the application as it has met the burden of proof required by the 11 DCMR 3107.2.

8. By letter dated January 11, 1988, Advisory Neighborhood Commission (ANC) 2E reported that it does not oppose the granting of the relief sought as the variances sought are technical and appropriate at the site and "the end result is consistent with the intent of the zoning requirements".

9. Neighbors of the site submitted letters to the record in support of the application.

10. There was no opposition to the application at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and the evidence of record, the Board concludes that the applicants are seeking area variances, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unusual condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent, purpose and integrity of the zone plan.

Sub-section 403.2, 11 DCMR allows a lot occupancy of 40 percent for the site. The addition will result in a lot

occupancy of 1,683.10 square feet necessitating a variance of 82.67 square feet, or 5.16 percent. Section 405.9 requires that a side yard of eight feet be provided for the site. The addition will provide a side yard of only 3.6 feet on the west side necessitating a variance of 4.4 feet or 55 percent. Sub-sections 2001.3(b) and (c) forbids the construction of an addition to a nonconforming structure where the addition causes a new nonconformity (with the percentage of lot occupancy) and does not provide the required side yard.

The Board concludes that the applicants have met the burden of proof. The lot occupancy would be well below the 40 percent allowed in the R-3 District if the lot occupancy were computed based on the width of the structure. Further, the allowed lot occupancy would not be exceeded even if the area of the proposed enlarged porch were added to the lot occupancy of the existing structure if the nonconforming side yard area were not calculated into the lot occupancy total.

The Board notes that the structure is detached in an area generally developed with row dwellings. The addition is consistent with the dimensions of the existing structure. If the addition conformed to the eight foot side yard requirements it would be less visually appealing. The property provides a sizeable rear yard and front yard.

The Board further concludes that granting the proposed relief will not cause substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is hereby ORDERED that the application is GRANTED SUBJECT to the CONDITION that construction shall be in accordance with the plans marked as Exhibit No. 19 of the record.

VOTE: 3-0 (William F. McIntosh, Paula L. Jewell and Charles R. Norris to grant; Carrie L. Thornhill not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: APR 21 1988

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14728order/LJP34

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

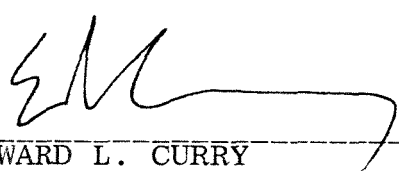


APPLICATION No. 14728

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated APR 21 1988, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Jeanne L. Espinel
3328 O Street, N.W.
Wash, D.C. 20007

Roger A. Pauley, Chairperson
Advisory Neighborhood Commission 2-E
1041 Wisconsin Avenue, N.W.
Washington, D. C. 20007


EDWARD L. CURRY
Executive Director

DATE: APR 21 1988

14728

J. L. Espinel

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